

## REMARKS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-11, 13-24, 26, and 29 remain pending in the present application. Claims 1, 2, 4-6, 9, 11, 13-15, 17-19, 22, 24, and 26 are amended; and Claims 12 and 25 are cancelled without prejudice or disclaimer by the present amendment. No new matter is added.<sup>1</sup>

In the Office Action, Claims 1-10 and 14-23 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite; Claims 1-4, 8, 14-17, and 21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fradette (U.S. Patent No. 6,606,698 B2, hereinafter “the ‘698 patent”) in view of Teruhi et al. (U.S. Patent Application Publication No. 2003/0072269 A1, hereinafter “the ‘269 publication”) and Day et al. (U.S. Patent No. 7,260,601 B1, hereinafter “the ‘601 patent”); Claims 5 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the ‘698 patent in view of the ‘269 publication, the ‘601 patent, and Deshpande (U.S. Patent No. 7,191,246 B2, hereinafter “the ‘246 patent”); Claims 6 and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the ‘698 patent in view of the ‘269 publication, the ‘601 patent, and Gemmell (U.S. Patent No. 6,678,855 B1, hereinafter “the ‘855 patent”); Claims 7 and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the ‘698 patent in view of the ‘269 publication, the ‘601 patent, and Noma et al. (U.S. Patent Application Publication No. 2003/0055988 A1, hereinafter “the ‘988 publication”); Claims 9 and 22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the ‘698 patent in view of the ‘269 publication, the ‘601 patent, and Fukunaga et al. (U.S. Patent No. 6,282,240 B1, hereinafter “the ‘240 patent”); Claims 11, 24, and 29 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the ‘601 patent in view of Day (U.S. Patent No. 7,222,185 B1, hereinafter “the ‘185 patent”); Claims 12-13 and 25-26 were

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<sup>1</sup> The amendments to Claims 1 and 14 find support at least in Figure 27 and its accompanying text in the specification. The amendments to Claim 11 finds support at least in Claims 12 and 13. The amendments to Claim 24 find support at least in Claims 25 and 26.

rejected under 35 U.S.C. § 103(a) as being unpatentable over the '601 patent in view of the '185 patent and the '855 patent; and Claims 10 and 23 were indicated as being allowable if rewritten in independent form.

Applicant thanks Examiner Nickerson for the indication of allowable subject matter. However, because Claims 1 and 14 are believed to overcome the applied references, Claims 10 and 23 are maintained in dependent form.

Regarding the indefiniteness rejections of Claims 1 and 14, Applicant has amended those claims as suggested by Examiner Nickerson in the Advisory Action. Accordingly, the rejections of Claims 1-10 and 14-23 under 35 U.S.C. § 112, second paragraph, are believed to have been rendered moot.

Independent Claims 1 and 14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the '698 patent in view of the '269 publication and the '601 patent.

Amended Claim 1 recites an information processing apparatus, including, in part "a data transmission setting unit configured . . . to determine a transmission bandwidth percentage for each of the selected one or more data transmission modes according to a demand level of reproduction object data . . .." Applicant submits that the '698 patent, the '269 publication, and the '601 patent fail to disclose or suggest these features.

The '698 patent concerns an "invention relate[d] . . . to a data storage managing apparatus and a method for managing data storage having high capacity."<sup>2</sup> The Office concedes that the '698 patent does not teach "a data transmission setting unit configured . . . to select one or more data transmission modes as the data transmission mode . . ."<sup>3</sup>

The '269 publication concerns a method including "(a) obtaining from the destination node quality information on multiple routes between the source and the destination node; and

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<sup>2</sup> '698 patent, col. 1, ll. 4-7.

<sup>3</sup> Office Action at 5, ll. 1-3.

(b) adaptively changing data distribution ratios for the multiple routes based on the route quality information.”<sup>4</sup>

That is, the ‘269 publication merely discloses that the data distribution ratios are changed based on route quality information. Thus, Applicant submits that the ‘269 publication fails to disclose or suggest “a data transmission setting unit configured . . . to determine a transmission bandwidth percentage for each of the selected one or more data transmission modes according to a demand level of reproduction object data,” as recited in amended Claim 1.

The ‘601 patent concerns a “broadcast resource [that] has only a limited number of channels, or bandwidth, for distributing media programs.”<sup>5</sup> The Office does not rely on the ‘601 patent for a suggestion of “a data transmission setting unit,” as recited in Claim 1. Applicant submits that the ‘601 patent does not include such a teaching or suggestion.

Thus, it is respectfully submitted that the ‘698 patent, the ‘269 publication, and the ‘601 patent, taken alone or in combination, fail to disclose or suggest “a data transmission setting unit,” as recited in amended Claim 1. Accordingly, Applicant submits that independent Claim 1 (and all associated dependent claims) patentably defines over any proper combination of the ‘698 patent, the ‘269 publication, and the ‘601 patent.

It is further submitted that independent Claim 14 (and its associated dependent claims) also distinguishes over the ‘698 patent, the ‘269 publication, and the ‘601 patent for the same reasons as discussed above with regard to Claim 1 and for the more detailed features presented in amended Claim 14.

Applicant has amended independent Claim 11 to recite subject matter previously recited in Claims 12 and 13. Claim 24 has been amended to recite subject matter previously recited in Claims 25 and 26. Applicant submits that amended Claims 11 and 24 recite

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<sup>4</sup> ‘269 publication, paras. [0010]-[0011].

<sup>5</sup> ‘601 patent, col. 4, ll. 34-36.

subject matter not anticipated or rendered obvious by the '601 patent, the '185 patent, and the '855 patent.

Independent Claim 11 recites an information processing apparatus, including, in part, "a control unit configured . . . to include an identifier of the transmission data in the carousel transmission process request," "said carousel transmission process request is sent to a carousel transmission execution node . . . ." Applicant respectfully submits that the '601 patent, the '185 patent, and the '855 patent fail to disclose or suggest these features.

In the previously discussed '601 patent, "The distribution system sends signals over the unicast connections to the recipients that the transmission of the media programs has changed."<sup>6</sup> The Office asserts that the '601 patent "teaches [that] program identifiers are used in the requests to adjust the transmission modes."<sup>7</sup>

The '601 patent merely describes sending signals to the recipients. Applicant respectfully submits that the '601 distribution system does not send the signals to the distribution resources. Applicant further submits that the '601 patent does not disclose or suggest "a control unit configured . . . to include an identifier of the transmission data in the carousel transmission process request," "said carousel transmission process request is *sent to a carousel transmission execution node*," as recited in amended Claim 11.

The '185 patent concerns a "counting facility [that] reports the results (e.g., relative popularity of the content 56) to the system controller 32 as a content reception characteristic 80."<sup>8</sup> The Office does not rely on the '185 patent for a suggestion of a "control unit . . . configured to include an identifier of . . . object data . . . in [a] carousel transmission process request." Applicant submits that the '185 patent does not include such a teaching or suggestion.

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<sup>6</sup> *Id.*, ll. 65-67.

<sup>7</sup> Advisory Action at 2, ll. 6-7.

<sup>8</sup> '185 patent, col. 8, ll. 33-36.

The '855 patent concerns a method in which "Data files can be sent using a data carousel and forward error correction."<sup>9</sup> The Office does not rely on the '855 patent for a suggestion of a "control unit . . . configured to include an identifier of . . . object data . . . in [a] carousel transmission process request." Further, Applicant submits that the '855 patent does not include such a teaching or suggestion.

Accordingly, it is submitted that the '601 patent, the '185 patent, and the '855 patent, taken alone or in combination, fail to disclose or suggest "a control unit," as recited in amended Claim 11. Therefore, Applicant respectfully submits that independent Claim 11 (and all associated dependent claims) patentably defines over any proper combination of the '601 patent, the '185 patent, and the '855 patent.

It is additionally submitted that independent Claim 24 (and all associated dependent claims) patentably distinguishes over the '601 patent, the '185 patent, and the '855 patent for the same reasons discussed above with regard to Claim 11 and for the more detailed features presented in amended Claim 24.

Dependent Claims 5-7, 9, 18-20, and 22 stand rejected over various combinations of the '698 patent, the '269 publication, and the '601 patent, with the '246 patent, the '855 patent, the '988 publication, and the '240 patent. Applicant submits that the '246 patent, the '855 patent, the '988 publication, and the '240 patent fail to remedy the above-noted deficiencies of the '698 patent, the '269 publication, and the '601 patent. Accordingly, it is submitted that the rejections of dependent Claims 5-7, 9, 18-20, and 22 are moot.

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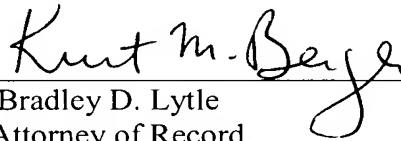
<sup>9</sup> '855 patent, Abstract.

Application No. 10/500,146  
Reply to Office Action of November 26, 2008  
and Advisory Action of February 5, 2009

Consequently, in light of the above discussion and in view of the present amendment,  
the present application is believed to be in condition for allowance. An early and favorable  
action to that effect is respectfully requested.

Respectfully submitted,

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A handwritten signature in cursive script, reading "Kurt M. Berger", is written over a horizontal line.

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